

Ricky Hubbard

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DISTRICT OF NEW JERSEY
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RICKY HUBBARD #73306-050
U.S.P. McCREARY UNIT 5A
PO BOX 3000
PINE KNOT, KY 42635

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

United States District Court	District of New Jersey
Name (under which you were convicted): Ricky Hubbard	Docket or Case No.: 20-507(KM)
Place of Confinement: USP McCreary	Prisoner No.: 73306-050
UNITED STATES OF AMERICA	Movant (<u>include</u> name under which you were convicted) Ricky Hubbard
v.	

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

United States District Court for the District of New Jersey

(b) Criminal docket or case number (if you know): **20-507(KM)**

2. (a) Date of the judgment of conviction (if you know): **3/13/2023**

(b) Date of sentencing: **9/12/2023**

3. Length of sentence: **228 Months (19 Years)**

4. Nature of crime (all counts): (1) 18 U.S.C. §922(g)(1); (2) 21 U.S.C. §841
(a)(1) & (b)(1)(C); (3) 18 U.S.C. §924(c)(1)(A)(i)

5. (a) What was your plea? (Check one)

(1) Not guilty (2) Guilty (3) Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge only

Page 3

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

8. Did you appeal from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Name of court: United States Court of Appeals for the Third Circuit

(b) Docket or case number (if you know): 23-2903

(c) Result: Affirmed

(d) Date of result (if you know): 11/21/2024

(e) Citation to the case (if you know): 2024 U.S. App. LEXIS 29620

(f) Grounds raised: Hubbard's lawyer challenged the denial of his motions to suppress various pieces of evidence; (1) He argued that the warrantless stop and subsequent search of his minivan were unconstitutional, so the fruits of the search should have been suppressed; (2) Hubbard's lawyer argued that Hubbard's rights under Miranda were violated; (3) DNA evidence from his buccal swab; (4) All other claims were forfeited by Hubbard's lawyer.

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

(5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No

(7) Result:

(8) Date of result (if you know):

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No

(7) Result:

(8) Date of result (if you know):

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes No

(2) Second petition: Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Ineffective Assistance of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (1) Failed to object to chain of custody violations
- (2) Failed to object to duplicitous indictment
- (3) Failed to suppress 4th amendment violations
- (4) Failed to object to Career Criminal Status
- (5) Failed to object to 403 and 404(b) evidence violations
- (6) Failed to object to Judge's denial of Expert Witnesses
- (7) Attorney represented defendant under a conflict of interest
- (8) Failed to object to defective indictment
- (9) Failed to request acquittal on Miranda rights violations
- (10) Failed to object to inadmissible evidences.
- (11) 18 U.S.C. §922(g) violates the 2nd Amendment as applied to Hubbard
- (12) All other claims were forfeited by Hubbard's attorney

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

Conflict of interest/ Attorney cannot raise his own ineffectiveness

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND TWO: Prosecutorial Misconduct

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (1) Prosecutor admitted evidence in violation of "rules of evidence"
- (2) Prosecutor used tainted evidence from state police in violation of 4th Amendment rights
- (3) Prosecutor failed to dismiss charges for Miranda rights violations
- (4) Prosecutor used defective duplicitous indictment for charging and punishing twice for the same offense
- (5) Prosecutor violated chain of custody
- (6) Prosecutor violated defendant's rights by not offering to substantiate prior convictions for career criminal status (see brief for additional grounds.)

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

Conflict of Interest/ Attorney could not raise his own ineffectiveness

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND THREE: Judicial Misconduct

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (1) Judge abused judicial discretion when he denied defendant's "only expert witness" that would have offered testimony that would have proven defendant's 4th Amendment violation
- (2) Abused discretion when he allowed inadmissible evidence of other crimes
- (3) Abused discretion by admission of evidence in violation of the chain of custody
- (4) Abused discretion by admitting evidence in violation of Miranda rights.
- (5) Abused discretion by allowing evidence disallowed by 403 and 404(b)

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

Conflict of Interest/ Attorney could not raise his own ineffectiveness

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

GROUND FOUR: Ineffective Assistance of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (1) Counsel failed to challenge prior convictions for Career Offender Enhancement at Sentencing Hearing.
- (2) Counsel failed to object to or challenge the chain of custody to the drugs.
- (3) Defendant challenges the 4-point enhancement for trafficking
- (4) Defendant asserts a speedy trial violation
- (5) Brady violation as to use of gun DNA identified as from "Henderson" to convict defendant Hubbard.
- (6) No proof of "trafficking" as mere possession of guns as drugs does not prove "in furtherance" element.
- (7) CHALLENGING THE COURT OF APPEALS.

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

Conflict of Interest/ Attorney could not raise his own ineffectiveness

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court?

If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Conflict of Interest/ Attorney could not raise his own ineffectiveness.
(especially as it related to the judge's misconduct for improper jury instructions relating to the 924(c) conviction).

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court

for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Public Defender's Office. (See court records)

(b) At arraignment and plea: Public Defender's Office (see court records)

(c) At trial: Jole Silberman

(d) At sentencing: Jole Silberman

(e) On appeal: Jole Silberman

(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding: N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

Motion is timely

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief:

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on
(month, date, year).

Executed (signed) on July 14, 25 (date).



Rickey Hubbard
Signature of Movant

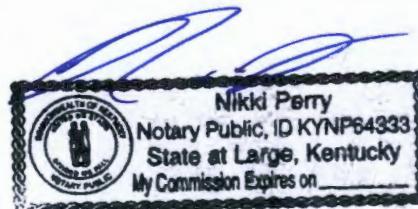
I declare (or certify, verify, or state) under penalty of perjury that I have been notified that I must include in this motion all the grounds for relief from the conviction or sentence that I challenge, and that I must state the facts that support each ground. I also understand that if I fail to set forth all the grounds in this motion, I may be barred from presenting additional grounds at a later date.

Executed (signed) on

July 8th, 2025 (date)

Signature of Movant

Rickey Hubbard



If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

PINE KNOT, KY 42635

~~X-RAYED~~

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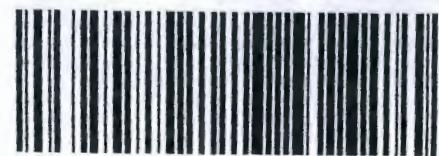
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